Justice, Due Process and the Rule of Law in Nigeria: the Story of Constable Thomas Shorunke, 1940–1946

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In 1940, Nigeria was just one of the four British West African dependencies. Her legal system was still at its infancy and its criminal justice system had just begun to unfold under the watchful but dominant eyes of imperial Britain. Still, in that year, up to 1946, an event of great import to the universally acclaimed doctrine of rule of law happened in the case of a police constable, Thomas Shorunke, who, in the face of daunting challenges and awesomeness of His Majesty, George VI's (1936–1952) prosecutorial powers, clung to the doctrine to secure justice for himself and to chart a significant path for one of Nigeria' most profound cases involving questions of the due process of law and substantial justice. In this paper, we show not just the history of the contest between a police officer and the King but, in addition, discuss an aspect of the history of judge-made laws under Nigeria's criminal justice system and by so doing, document a major exercise in courage and tenacity demonstrated by a junior police officer under colonial rule.

[rule of law; due process; Nigeria Police; justice; Privy Council; Supreme Court Ordinance]

Introduction

By 1940, Nigeria was no longer a stranger to the British Legal system. She had been carved into a British Protectorate in the second half of the 19th century after a series of development which began with the annexation of Lagos in 1861 and climaxed in the total overrun of the whole

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of the country by British forces in 1903.[1] The country was however subdued differently as two separate Protectorates of the North and the South and a Colony in Lagos.[2] In 1914 however, both the Northern and Southern Protectorates and the Colony of Lagos were amalgamated and consolidated into one State under British hegemony with the British legal system imposed thereupon subject to minor exemptions in the areas of private customary law.[3]

Hence, by 1940, when the case of stealing and breaking which are the issues of this study came up at Ibadan, the English legal system especially those governing criminal matters were already 77 years old in Nigeria having been introduced and legitimised first in Lagos in 1863 under the Supreme Court Ordinance of 1863 and subsequently consolidated in the Protectorate Court Ordinance of 1933.[4] In fact, by the start of World War I, a very crucial legislation called the *Supreme Court Ordinance* of 1914 had been promulgated to ensure that Nigeria was brought in a way unmistakeable to anyone into the sphere of the Common Law applicable in England inclusive of the Statutes of General Application which were in force in England as at 1900. The law had provided: Subject to the terms or any other Ordinance, the Common law, the Doctrines of Equity and Statutes of General Application which were in force in England on January 1, 1909, shall be in force within the jurisdiction of the Supreme Court of Nigeria.[5]

This law was further reinforced in all material particular by the Protectorate Ordinance of 1933 which contained the same provision in its section 12, as those of section 14 of the Supreme Court Ordinance cited above. Under this kind of legal system, any law in Nigeria proving inadequate for matters of criminal and civil litigations was supplemented by those of England regulating similar issues.

Since the 1900s therefore, issues of criminal justice and litigation had fallen in Nigeria within the purview of English legal system or

1 S. ABUBAKAR, "The Norther Provinces Under Colonial Rule", in: O. IKIME (ed.), *Groundwork of Nigerian History*, Ibadan 1980, pp. 447–481.

2 T. TAMUNO, "British Colonial Administration in Nigeria", in: O. IKIME (ed.), *Groundwork of Nigerian History*, Ibadan 1980, pp. 393–409.

3 See T. O. ELIAS, *Nigeria: The Development of its Laws and Constitution*, London 1967, p. 24; A. O. OBILADE, *The Nigerian Legal System*, Ibadan 1979, p. 22.

4 Ibidem, p. 30; see also Nigeria Supreme Court Ordinance (No. 11) of 1863, Nigeria, Protectorate Court Ordinance (No. 45), 1933.

5 Supreme Court Ordinance, 1914: section 14.

British inspired legal codes. Specifically, the Criminal Code which was enacted in 1916 as a principal law for the regulation of criminal matters was of British origin.[6] This was the applicable law in Nigeria as the time that Constable Thomas Shorunke was accused of stealing and breaking into a shop with a view to committing felony therein. The Criminal Code's counterpart law for the enforcement of the substantive law itself, the Criminal Procedure Ordinance was however not enacted until 1923 and consolidated in the Criminal Procedure act of 1 June, 1945. However recourse was had to relevant English laws and the Supreme Court Ordinance of 1914 or the Protectorate Court Ordinance of 1933 on the correct processes and procedures to follow in criminal litigations whenever there was need for it. The Criminal Code had outlawed the act of stealing when it provided thus: Any person who steals anything capable of being stolen is guilty of a felony, and is liable, if no other punishment is provided, to imprisonment for three years.[7]

Again, the same law had provided on unlawful breaking thus: Any person who breaks and enters a school house, or a building which is adjacent to a dwelling house and occupied with but is not part of it, and commits a felony therein; or having committed a felony in a school house, shop or warehouse, store office or counting house, or in any such other building as last mentioned, breaks out of the building, is guilty of a felony, and is liable for imprisonment for fourteen years.[8]

The severity of the punishment attached to the above offences leaves no one in doubt as to the seriousness of the legal battle which confronted Constable Thomas Shorunke particularly as a police officer who was expected to be at least, fairly above board in the display of the best attitude towards the law and orderly or honest conduct in social affairs. He was committed to trial first at the High court, Ibadan, in February, 1940, and was found guilty and subsequently sentenced to seven years imprisonment. He appealed to the West African Court of Appeal in April, 1940, which then sat in Sierra Leone and lost. Again, in 1944 via the Appeal No. 88 of that year, he filed an appeal against his conviction to the highest possible court in the British Commonwealth, the Privy Council, and the court found for him on the grounds

[6] See Nigeria, Criminal Code (CAP 77), Laws of the Federation of Nigeria, 1990.
[7] Nigeria, Criminal Code, 1916: section 390.
[8] Nigeria, Criminal Code, 1916: section 413(1) and (2).

that the processes and procedures leading to his conviction at the trial court were incurably flawed. That judgment established for Nigeria and, the indeed, the British Commonwealth, a judicial precedent of an especially momentous proportion on the trajectory of the due process of law in criminal litigation.

Constable Shorunke's gallant fight for the due process has become a reference point in Nigeria's judicial discourse today and is therefore deserving of a proper historical reconstruction to serve as a lesson to judicial and police officers in Nigeria. hence it is important to interrogate the matter by posing the pertinent questions: (i) what really could be said to be the propelling force for a very junior police officer of Shorunke's stature to take on the State (or the King) as at that time from the very foundations of legal intermediation in Nigeria to the highest court in England in proving his innocence?; (ii) was Shorunke's acquittal based only on legal technicality rather than on the equally important consideration of the justice of the matter?; (iii) since he had served his full sentence at the time the Privy Council found for him and quashed his conviction what necessary legal remedy was available to him to seek compensation for wrongful conviction and did he pursue it? It is to these and some other pertinent issues that this paper addresses itself.

History of the Case

In January 1940, a police Constable, together with three other policemen and three civilians, all adult males, were arrested and accused of committing the crime of breaking into a shop at Ogbomoso, entering into it without lawful authority and stealing therefrom, the sum of £300 being property of another with a view to permanently depriving its owner of the said sum. The location of the alleged crime, Ogbomoso, was a local community in the western part of Nigeria, which was about 200 kilometres north of the capital of that part, Ibadan. Ogbomoso in 1940 was by any descriptions a small town with a population of between 10,000–14,000 inhabitants. Criminal activities over there was not only significantly less than what was obtainable in a relatively more populated neighbouring areas as Oyo, Ilorin or even Osogbo, which were provincial headquarters of the Osun District in the Western part of Nigeria but the culture of honesty and hard work,

protection of family honour by ensuring good behaviour and reputation were hallowed values of the village.

Thomas Shorunke, the subject of our discourse was a Police Constable; a native of Abeokuta, a Yoruba town noted for its very accommodating pro-British stance. Although the independence of Abeokuta had been acknowledged and respected by the British colonial authorities, the town was nonetheless a sort of a British inspired modern African community. Hence, schools which taught European-style education, churches especially those patterned after those of England and Exeter as well as British trained artisans and "westernised" elite were integral features of Abeokuta as an emerging African modern city in the first part of the 20th century.[9]

The crimes for which Thomas Shorunke was accused were, by the rules of engagement of the Nigeria Police in the 1940s and the public office which he occupied as a law officer, grave.[10] The crime of stealing was punishable under the then extant Criminal Code by imprisonment for a period not less than 3 years.[11] The second offence for which he was charged, illegal breaking into a property and committing felony thereon, to wit stealing, was also serious being an indictable offence which carried the sentence, on conviction, of 14 years imprisonment.[12] It is important to note that the alleged crimes were committed just a year after the beginning of the Second World War, a time in which public servants in Nigeria were required to face and bear the brunt of the frugality of British war economy during which salaries were paid irregularly to all categories of public servants in Nigeria. However, Thomas Shorunke was an adult with full capacity to apprehend the import and consequences of his alleged action and no evidence was led at his trial to show that he was not in full control of his mental faculty.

The chronology of the case was like this: on 1 February, 1940, Shorunke and the other co-accused were formally charged at the High

[9] L. DAVIES, "The Rise and Fall of Egba Independence: A Review", in: *Ife Journal of History*, 6, 1, 2013, pp. 1–24.

[10] Thomas Shorunke v. The King (1946) Appeal Cases, in: *The Law Reports of the Incorporated Council of Law Reporting for England and Wales*, published by Butterworth & Co. 1974, pp. 316–327.

[11] Nigeria, Criminal Code 1916: section 390.

[12] Nigeria, Criminal Code 1916: section 413.

Court which sat in Ibadan to hear his case. This was after an initial investigation of the charges at the District Magistrate Court which sat in the same town, Ibadan. Evidence was given in the case by the Prosecution and Shorunke together with six other accused persons reserved his defence. Shorunke pleaded not guilty after which he told the court he would be represented by a counsel, by the name Mr. Wells Palmer, who was not in court on that day. Hence, the trial judge gave instructions that the said Mr Palmer be contacted by telegram to intimate him of what the accused said and of the need for him to appear in court to defend his supposed client. However, the judge also gave instructions to the Police to ensure that the accused got every facility he needed to get in touch with his counsel but that if this failed he should be assisted to secure one locally. Thereafter, he adjourned the matter to the following day.

It turned out that Mr. Palmer denied being the legal representative of the accused and he informed the court he would not be appearing. So, the trial proceeded on the 2nd of February against all the accused persons. However during the sitting on 2nd February, Thomas Shorunke handed over to the court a list of witnesses and documents that he wanted to call or tender in his own defence. But he did not give the reasons why he wanted the witnesses called or inkling into the testimony he would want them give in his favour. The learned judge (John Asst. J), at the end of the day's sitting warned Shorunke that he must give an idea of the testimony he would have the witnesses give in his defence and the contents of the documents contained in his list submitted to the court so that the court could determine whether the testimonies were relevant or not. The learned judge also told Shorunke that if the testimonies were relevant he would issue free subpoenas but not otherwise.

The following day, 3rd February, the Solicitor-General who appeared for the prosecution informed the court that he had tried to assist Shorunke arrange his witnesses and documents but that he refused him cooperation; he pleaded that the court relieved him of further responsibility to do this any further. At that point the learned judge rose to reconsider his earlier directive to the Police to give every necessary assistance to Shorunke by asking to see him in his chambers in the interest of justice and fair hearing so as to discover what witnesses he would have called and the documents he would require.

But in the course of proceedings on the same day and while Shorunke was cross-examining one of the prosecution witnesses, the Solicitor-General objected to one of the questions he put to one of the witnesses on the grounds that it was irrelevant and the objection was upheld by the court. Thereafter, Shorunke informed the court that he would no longer ask any further questions or tender any documents until he got a lawyer to defend him. He insisted that a lawyer was being sent to defend him. In the course of further proceedings in the matter he refused to say a word but remained mute throughout. However at the close of the day's sittings the learned judge asked to see Shorunke in his private office to again interview him as to the content of the documents he would like to tender and the gist of the testimony that his witnesses would be presenting in his defence and the reasons for presenting the documents he wished to present.

The learned judge was probably not convinced that the witnesses could give any material evidence especially that many of them were being called from Ondo, another town in south-western Nigeria far removed by more than 200 kilometres from the scene of the alleged crime. Still, Shorunke insisted he was not going to give the reasons why he wanted to call the witnesses or tender the documents he had proposed to tender and, at any rate, he said he would not be presenting any new list of witnesses and documents and that the one he had earlier presented to court on the 2nd of February would suffice. At that point the leaned judge told Shorunke that he would no longer get any further assistance in his case and that if he needed to call any witnesses he would have to make his own private arrangement thenceforth.

On the 5th of February when the case continued, Shorunke objected to the leaned judge sitting on the matter any further especially on the grounds of the interaction he had had with the judge some two days earlier. But the learned judge disregarded this protestation on the rationale that it was an attempt either to intimidate the court or delay the course of justice in the matter. Note that even as at that time, the accused had not yet had the opportunity of being defended by a lawyer. On the 13th of February, the court found Shorunke and all the other accused except one guilty of the charges preferred against them and sentenced them including Shorunke to 7 years imprisonment with hard labour.

After his conviction Shorunke obtained the services of a lawyer and he filed an appeal against the judgement of the lower court at the West African Court of Appeal (WACA) before their Lordships: Kingdon C. J (Nigeria), Petrides C. J (Gold Coast) and Paul C. J (Sierra Leone). He prayed the Court to set aside the judgement of the lower court on the grounds that his right to fair hearing had been imperilled by the refusal of that court to issue subpoenas denying him opportunity of defending himself. He claimed that his defence was an *alibi*. He therefore applied to the court to call him and his witnesses to give evidence. The court adjudicated on the matter in just about two months and dismissed on the 27th day of April, 1940, the application as lacking in merit. Accordingly, it affirmed the conviction of the accused by the lower.

Not done with the push for the justice of his case, Shorunke appealed to the Privy Council in London to avail him the opportunity of British Common Law rights on the issuance of subpoenas. The appeal came in 1944 by leave of WACA and their Lordships: Lord Porter (who later delivered the judgement in the case) together with Lord Du Parc and Sir John Beaumont presided over the matter. Mr. Elliot Gorst appeared for the appellant and Sir Patrick Hastings and F. Gahan for the Crown. The stage was thus set for a titanic legal battle in England which was destined to set a monumental precedent in the British Commonwealth and indeed, Nigeria's criminal jurisprudence on the due process of law. On Thursday, April 11, 1946, two years after the appeal was filed, Shorunke got the judgement he had so passionately sought after since his first committal for trial in Ibadan in February 1940. Lord Porter, on behalf of his other brother justices who agreed to his lead judgement wasted no time in upholding the rule of law and the justice in Shorunke's contention when he said with finality:

Having regard to the fact that in their Lordships' opinion, process ought to have issued at the request of the appellant without the imposition of the condition that he should disclose his reason for wishing to call the various witnesses set out in his list, they are unable to say that a grave miscarriage of justice has not occurred. They will accordingly humbly advise His Majesty that the appeal be allowed.[13]

[13] The Law Reports (England) (1946) Appeal Cases, p. 327. The Incorporated council for Law Reporting for England and Wales 1946.

Issues of Law, the Rule of Law and the Due Process

For Thomas Shorunke, the issues of law in his contention were these: (i) denial of the right to fair hearing by the court as a result of its refusal to issue subpoena for the summoning of his witnesses; (ii) breach of the rule of the due process of procedural law under the common law rule for the summoning of witnesses by which the person asking for it needed not give reasons for requiring that the witnesses be summoned and; (iii) breach of the essential principles of justice by the court in convicting him only on the testimony of the prosecution witnesses. These were the three grounds of appeal in Thomas Shorunke's petition to the Privy Council which raised the fundamental and only question: did the learned judge act judicially and judiciously by refusing to issue subpoenas summoning the appellant's witnesses on the grounds that he did not give reasons why the witnesses should be summoned or the gist of the testimony they would give in his case during trial? Put differently ought the judge to have issued subpoenas without imposing conditions?

Thomas Shorunke contended that the learned judge should not have imposed any conditions on him before issuing subpoenas and that by demanding that he gave the gist of the testimony that the witnesses would likely give in his behalf so that he could judge whether they were relevant or not amounted to a denial of justice and the due process of the law. Shorunke's argument was that after the initial investigation of the matter at the Magistrate court in Ibadan, and his committal to trial at the High Court, the learned judge should have been led to accept that he was covered by the common law right for accused persons whereby subpoenas issued as of right without conditions and not as he had done, apply the Nigerian law – Criminal Procedure Ordinance which the judge claimed covered the field and prescribed that the accused person gave the gist of the testimony and the content of documents contained in the list of witnesses presented to court before subpoenas could be issued. Shorunke's position was that by virtue of the Supreme Court Ordinance of 1914, the criminal justice system in Nigeria had to follow the provisions of the common law rule at least, in so far as the issue of subpoenas was concerned.[14] The relevant section of the law had provided, *inter alia*: "*the Common*

[14] See CAP 3, Laws of Nigeria, 1923.

law, the Doctrines of Equity and Statutes of General Application which were in force in England on January 1, 1909, shall be in force within the jurisdiction of the Supreme Court of Nigeria".[15] It was therefore his opinion and contention before the Privy Council that even if the judge was to be in doubt as to the adequacy of the Nigerian legislation on the issue of subpoenas he could have made resort to the Common law principle by virtue of the above cited portion of the Supreme Court Ordinance and that by failing to do so, his conviction was unjust, at variance with the due process of law, malicious, and should be so declared by the Privy Council.

The prosecution countered this argument brilliantly by asserting that the situation and conditions of criminal proceedings applicable under the English Common Law system which was prayed for by Shorunke were different from what obtained under the Nigerian system. It averred that whereas under the English system wherein the common law developed, criminal laws had evolved from several traditions and judges-made laws over many centuries, many of which were not originally contained in statutes but under the Nigerian criminal justice system, subpoenas was governed not by judges-made laws but by codified statutes. It further averred that the relevant statutes for the issuing of *subpoena ad testificandum* was the Criminal Procedure Ordinance especially sections 66 and 67 of the law and that these sections of the law had stipulated that the accused person must fulfil certain conditions before a subpoena could be issued to summon his witnesses.[16] For instance and as pointed out by the prosecution section 66 of the law had provided: Immediately after the accused shall so have had opportunity of making his answer to the charge, the court shall ask him whether he desires to call witnesses, and the deposition of such witnesses as the accused shall call and who shall appear on his behalf shall then be taken in the like manner as in the case of the witnesses for the prosecution.[17]

Furthermore, section 67 of the same Ordinance provided: If the accused person states he has witnesses to call but that they are not present in the court "*and the court is satisfied that the absence of the witnesses is not due to any fault or neglect of the accused, and that there is a likelihood*

[15] Nigeria, Supreme Court Ordinance 1914: section 14.
[16] Nigeria, Criminal Procedure Ordinance 1914: CAP C. 20 Laws of Nigeria, 1923.
[17] Ibidem, section 66.

that they could give material evidence on his behalf", the court may adjourn the investigation and issue process or take other steps to compel the attendance of such witnesses.[18]

Thus, to the prosecution, the judge was entitled and bound to do what he did by simply applying the rules contained in the above provisions of the law which required that certain conditions be fulfilled by the accused, namely: (a) that it was not owing to the defendant (accused) that the witnesses desired to be called were not present in court; and (b) that if the witnesses were called they would be able to give material evidence. In the Shorunke's matter, the prosecution concluded that the judge had to determine whether the application for subpoenas was not been made *malafide* and that the only way the learned judge could be satisfied that this was not the case was by the accused person answering the simple question as to the purpose/reason for which he wanted to call those witnesses or whether it was a case of attempting to delay the course of trial or intimidate the court. And, that even section 62 of the Supreme Court Ordinance which was also repeated in *pari material* in section 12 of the then extant Protectorate Court Ordinance of 1933 had ordained that certain conditions subject to some exceptions be levied before subpoena can be issued.[19] The law provided: In any case or matter and at any stage thereof, the court either of its own motion or on the application of any party summon any person within the jurisdiction to attend to give evidence or to produce any document within his possession and *may examine* such person as witness and require him to produce any document in his possession or power, *subject to just exceptions*.[20]

However, the Privy Council considered the position of the prosecution as set out above as mistaken. The law referred to, sections 66 and 67 of the Criminal Procedure Ordinance of 1914 applied not to the stage if trial of the accused person but to the "Preliminary Investigation" stage, not to "Summary Trial" as shown in Part II of the same law. Hence, that part (i. e. part II) which required conditions before subpoenas could be issued did not cover the whole field of criminal trial. Hence, the learned judge should have made recourse to the Supreme

[18] Ibidem, section 67.

[19] Nigeria, Protectorate Court Ordinance of 1933 (PCO 1933): section 12; Supreme Court Ordinance, 1914: section 62.

[20] Nigeria, Supreme Court Ordinance, 1914: section 62.

Court Ordinance of 1914 which would have availed him the opportunity of applying the common law rule on the issuance of subpoenas; his failure to do this in the opinion of the Privy Council irreparably injured the due process of the law in that matter.

Again, it was the opinion of the Privy Council that although section 62 of the Supreme Court Ordinance cited above had provided that "the Court may" examine a person and require him to produce evidence, the word "may" there should not be interpreted to mean that the right of the accused person to secure a subpoena was not an imperative of the law or that it was only subject to the discretion of the court; in fact, based on the strict requirement of fair hearing of the due process of the law it was actually mandatory. That section, according to the Council, only gave an additional powers to the Court to issue process at any stage either *suo motu* (by court's own decision) or at the request of any party to a dispute.

This reading of the Nigerian Ordinance had its backing in the persuasive laws of the State of Madras – section 149 of Act VIII (1859) and section 159 of Act XIV (1882) and in the case, *Veerabadran Chetty v. Nataraja Desikar* in which the court held that an accused was entitled to obtain summons for the attendance of witnesses on application before the day fixed for judgement and that the judge could not under the sections referred to above refuse the application. In the case of Veerabadran Chetty the court had held that: "*It is not for him (i. e. the Judge) to assume or infer that such witness is not likely to know anything in the matter in dispute, or to be of any use to the party applying. That is a matter for the applicant himself to consider.*"[21]

In other words, the decision by the trial court to demand reasons why Shorunke wanted to call the witnesses he had applied to be subpoenaed was not only wrong, the judge also erred in law by inferring that those witnesses (even if they were to be summoned from Ondo or elsewhere that was not geographically contiguous to the place of the alleged crime (Ogbomoso) as the judge remarked in his judgment), could not give any material evidence that could substantiate the defence of the accused. The Council held that the learned judge ought to have issued the subpoena requested without such conditions. This

[21] See The Law Reports (TLR) (England) (1946) Appeal Cases, 318; also, *Veerabadran Chetty v. Nataraja Desikar* (1904) T.L.R. 28, M., 28, 36.

position was further buttressed by the decision of court in an earlier case of *Muhammad Nawaz v. King Emperor* in which the court held *inter alia* that one of the grounds upon which an appellant might validly apply for a review of his case was if the accused "*was not allowed to call relevant witnesses*".[22] Hence in upholding Shorunke's contention that the due process of the law had not been followed in his trial and that as a result he was denied fair trial and made to suffer unduly, the Privy Council said: The right of an accused person who is in custody to call witnesses and to the production of documents is vested in any prisoner and he should only be deprived of it by circumstances which render its reasonable enforcement impossible. It was the duty of the trial court both under Or. V. r. 1, of the Protectorate court Ordinance, 1933, and also as a matter of essential justice to issue the summons to witnesses to give evidence and to produce documents which the appellant requested, and the court had no discretion in the circumstances to refuse the application. It was not for the court to assume or infer that the witnesses asked for did not know anything material, and the only ground on which a summons to any such witness could have been lawfully refused was because it was evident that the witness was not being summoned *bona fide* and that the summons would therefore be an abuse of the process of the court. The appellant was unconditionally entitled to call such witnesses as he reasonable considered would help him in his defence, and refusal of witnesses' summons made it impossible for him to put forward his defence to the charge made against him after the refusal to issue the subpoena, the conviction was unlawful and ought to be quashed. The refusal of the court of Appeal to admit before them the evidence which the appellant desired, or otherwise to cause such evidence to be considered amounted in the circumstances to a denial of justice.[23]

No better decision as shown in the words of the court above, for the sake of justice and the due process of law could be made. The Privy Council recognised the need for justice and the due process of the law in the Shorunke's case and made for Nigeria, a *locus classicus* in the annals of the country's criminal justice system which has remained till

[22] Ibidem; also, *Muhammad Nawaz v. King Emperor* (1941) L.R. 68, i.A. 126, 128.
[23] The Law Reports (England) (1946) Appeal Cases, 319.

today a reference point in how to conduct fair hearing and grant to the accused ample opportunity to defend himself.

Conclusions

The issue of justice, both legal and natural, transcends the mere adherence to the dictates of substantive law. Observance of the procedural law, which governs the process by which substantive laws are enforced, is very critical to reaching a just decision on any matter in litigation. Their Lordships have shown that in the case of Thomas Shorunke neglecting to follow the due process of law in reaching a decision can be fatal to the decision itself and would, if need be, be set aside by a higher court. In other words, while the truth of a matter is the object sought after by substantive laws, the justice of the process is the concern of procedural laws which was well proved in the dictates of the Supreme Court Ordinance of 1914. Note that the Privy Council did not rule that Thomas Shorunke did not break into and steal from a shop in Ogbomoso in 1940, it might well have been that after the due process of trying him had been followed that he might have been validly convicted on those charges, but that the process begun in Ibadan at the High Court to prove his guilt failed the litmus test of fair hearing, the due process of the law and the requirements of legal justice because the accused was denied the opportunity of calling his witnesses by the failure of the learned judge to issue subpoenas without imposing any conditions on the accused. Hence, what Shorunke got was legal justice on the manner he was convicted and not whether he broke into and committed felony in a shop or not. The lesson of history here is that a decision might be legally "correct" and still not be legally "just". And, since the purpose of the adjudicatory system in the commonwealth as at that time was to reach a "just" decision and not necessarily a "correct" decision, it can be validly claimed that the position taken and the decision reached by the Privy Council in 1946 on the Shorunke's case accorded well with the principles of legal justice and the due process of the law in every material particular.